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Report of the Advisory Committee on Administrative and Budgetary Questions

Amendment of the UNDP financial regulations regarding direct budget support, pooled funds and ex-gratia payments

Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the document on UNDP engagement in direct budget support and pooled funds (DP/2008/36) and two letters from UNDP on the amendment of the UNDP financial regulations regarding ex-gratia payments. During its consideration of the documents, the Advisory Committee met with the Comptroller of UNDP and other representatives, who provided additional information and clarification.

2. UNDP has requested the Executive Board to approve its engagement in direct budget support and pooled funds and to remove the financial limitation of $50,000 on ex-gratia payments. In this regard, amendments to the UNDP financial regulations are proposed.

I. Direct budget support and pooled funds

3. Background information with regard to direct budget support is contained in paragraphs 1-5 of DP/2008/36. The Advisory Committee notes from the document that, as a development finance instrument, direct budget support promotes national ownership, transparency and harmonization in aid allocations. UNDP indicates that, though not its core business, direct budget support embodies principles of national ownership that UNDP has long stood for. The Committee also notes that there is

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increased interest among programme country governments and donors in using direct budget support to provide, monitor and manage development finance directly through national budgets. In this regard, the Committee recalls the proposed system-wide approaches to support national capacities, including those recommended by the United Nations Development Group in 2005 and included in the Triennial Comprehensive Policy Review of 2007.

4. Definitions for direct budget support and pooled funds are provided in paragraphs 6-10 of the document. ***Direct budget support*** is defined as a method of financing the budget of a partner country by transferring resources from an external financing agency to the national treasury of the partner government. It can be classified into (a) general budget support, which is a non-earmarked contribution directed at overall government policy and expenditures; and (b) sector budget support, which is an earmarked contribution to the national budget towards sector or thematic programme-specific results. The Committee notes that UNDP intends to restrict itself to financial contributions to sector budget support, and does not envisage any contribution to general budget support.

5. ***Pooled funds*** are designed for financing expenditures within a sector or a programme through the pooling of the financial resources by the participating partners. The term is used to differentiate it from sector budget support, which consists of funds within the national account. A pooled fund would be contracted out by the government concerned to be managed by an agreed party. As indicated in the document, UNDP contributions, whether into the national budget through sector budget support or into a pooled fund, would be comingled with non-UNDP funding sources. The Committee notes that UNDP will not make financial contributions to a pooled fund not managed by a United Nations specialized agency, fund or programme.

6. Policies and procedures for UNDP engagement in direct budget support and pooled funds are included in paragraphs 12-25 of the document. UNDP contributions could be channelled through (a) a standard UNDP project, (b) a financial contribution to a sector budget support fund or to a pooled fund, or (c) a combination of both. It would be carried out in accordance with standard UNDP programme and project arrangements. The Committee notes that, according to UNDP, financial contributions following this new approach would not exceed 10 per cent of the annual authorized spending limit of UNDP regular ('core') funds. (The checklist for direct financial contributions is shown in box 1 of DP/2008/36).

7. As indicated in paragraph 27 of the document, the proposed amendments to the financial regulations are related to regulation 18.05 (to allow for reporting on comingled funds), regulation 16.04 (to allow for fund-level auditing), and regulation 27.01 (definitions). UNDP proposed, in document DP/2008/36, elements for a decision by the Executive Board including, inter alia,

(a) Consider 2008-2011 as a pilot period;

(b) Approve the proposed amendments to the financial regulations; and

(c) Request that results be reported to the Board at the end of the pilot period, and that financial reporting on contributions to direct budget support and pooled funds be included in the annual review of the financial situation.

8. Regarding the need to amend the financial regulations before UNDP engagement in direct budget support and pooled funds, the Committee was informed, upon enquiry, that UNDP financial regulations require separate accounting records of UNDP contributions to permit distinct reporting and

separate auditing on the contributions. However, for UNDP contributions to sector budget support or pooled funds, where contributions from all partners will be comingled and audited in totality, separate management and auditing of UNDP funds would not be possible, and this would not fully comply with existing financial regulations. UNDP therefore deems the proposed amendments to be necessary before it engages in direct budget support and pooled funds.

9. For the pilot period from 2008-2011the Committee was informed, upon enquiry, that UNDP expects to learn from the implementation process in order to adapt its policies and procedures. The Advisory Committee notes the evolution of UNDP activities over the years to meet development needs and explore new programme modalities. Upon enquiry, the Committee was informed that the proposed engagement in direct budget support and pooled funds would not affect the role of UNDP in regional and subregional programmes.

10. Upon enquiry, the Committee was informed that revisions were being made to strengthen UNDP programme monitoring and assessment, and that joint assessment and monitoring by participating partners would be essential in the new approach. In addition, the Committee notes that an update on a common approach among the members of the United Nations Development Group could be provided to the annual session of the Executive Board in 2008, if requested (DP/2008/36, para.30). The Committee encourages UNDP to provide such an update. The Advisory Committee stresses the importance of assessment and monitoring of the proposed activities, as well as of the role that would be played by national audit institutions.

11. The Advisory Committee finds ambiguity in certain wording contained in the proposed amendment to Regulation 18.05 (b):

(a) "The Administrator shall establish the policies and procedures for UNDP participation in direct budget support and pooled funds." The Committee was informed, upon enquiry, that while the Executive Board approves programmes, the Administrator is usually authorized to establish implementation modalities. In this context, the Committee emphasizes that policy decisions on this matter should be established by the Executive Board.

(b) "The policies and procedures shall further provide for UNDP reporting on the financial status of funds..." The Committee recommends that it be specified that UNDP would report to the Executive Board.

(c) "The expenditure recognition for UNDP resources contributed to the sector budget support or pooled fund shall be on a prorated basis". Upon enquiry, the Committee was informed that the prorated basis would take into account the total contributions by the participating partners. The Committee therefore suggests that the words, "including the total contributions by participating partners". be added at the end of the proposed amendment.

12. Should the Executive Board decide to approve UNDP engagement in direct budget support and pooled funds, the Advisory Committee has no objection to the proposed amendments to the Financial Regulations, subject to its observations above.

II. Ex-gratia payments

13. The Advisory Committee received two letters on the subject of ex-gratia payments from UNDP dated 15 February 2008 and 25 April 2008, respectively. The letters indicate that, in accordance with financial regulation 23.01, the Administrator could make ex-gratia payments not exceeding $50,000 as he/she deemed necessary and in the interests of UNDP. That amount, which was increased from $40,000 in 2000, covers cumulative approvals for a 12-month period. The Committee was informed that a total of $42,480 was paid to three staff members during the period 2001-2007.

14. However, in the aftermath of the bombing of the United Nations office in Algiers, it became evident to UNDP that under certain circumstances payments may need to exceed the limit set by the financial regulations. UNDP informed the Advisory Committee that it had been obliged to turn down requests for ex-gratia payments by staff who were victims of the bombing, due to the financial limit placed on such payments. UNDP considers that it would be important to be able to respond appropriately to such crises in the future. The Committee was also informed that no such financial limit on ex-gratia payments is contained in the financial regulations and rules of the United Nations (ST/SGB/2003/7, regulation 5.11 and rule 105.12), the United Nations Children's Fund or the United Nations World Food Programme.

15. UNDP therefore proposed to amend its financial regulation 23.01 by removing the financial limit of $50,000. UNDP does not expect this amendment to result in a significant financial impact for UNDP, given the small number of payments made during 2001-2007.

16. In addition, UNDP proposed to amend its financial rule 123.01 (a), to replace the 'United Nations Office of Legal Affairs' with the 'United Nations Development Programme Legal Support Office', in order to reflect the establishment of the UNDP Legal Support Office in 2000. Upon enquiry, the Advisory Committee was informed that UNDP Legal Support Office consults with the United Nations Office of Legal Affairs as needed. While the Committee has no objection to the proposal, which is in line with development in this area, it emphasizes the role of the Office of Legal Affairs as the central legal service of the United Nations.

17. The Committee was further informed that the proposed amendments to financial regulation 23.01 and rule 123.01 (a) had been shared with both the internal and external auditors, who had expressed no objections to the changes.

18. The Advisory Committee notes that, in accordance with UNDP financial regulation 23.01, "a statement of such payments shall be submitted to the General Assembly and the Executive Board with the financial statements". Upon enquiry, the Advisory Committee was informed that ex-gratia payments are included in the financial statements.

19. The Advisory Committee recommends approval of the proposed amendments to the financial regulation 23.01 and rule 123.01 (a) regarding ex-gratia payments, subject to the observations above.